

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
CASE NO. 1:22-cv-21130-BB

JOSE TELLERIA,

Plaintiff,

v.

AZTLAN FOODS, CORP.,  
AND ECI, INC.,

Defendants.

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**DEFENDANTS' RESPONSE TO PLAINTIFF'S AMENDED STATEMENT OF CLAIM**

Defendant, AZTLAN FOODS, CORP. ("Aztlan") and EVI, INC., ("EVI"), (Collectively "Defendants"), by and through their undersigned counsel, hereby file their Response to Plaintiff's Amended Statement of Claim.

1. Defendants assert that Plaintiff is likely entitled to some relief in this matter, solely on the claim for Overtime, but at nowhere near the level sought in Plaintiff's Amended Statement of Claim (SOC).
2. Plaintiff has had the details of his employment incorrect from the onset of this matter, and only partially corrects the issues with his Corrected Amended Complaint.
3. The two named corporate Defendants are related companies. However, Plaintiff was only ever employed by Aztlan, and not EVI. Thus, to the extent EVI has now been added as a party Defendant, EVI's posture is that it owes Plaintiff nothing because Plaintiff was never employed by the company.

4. Plaintiff was employed by Aztlan and is likely to be owed some overtime compensation.

The estimate is that in many weeks, but certainly nowhere near the 150 weeks claimed by Plaintiff, he did work in excess of forty hours and was paid straight time.

5. However, there is also legitimacy in Aztlan's Affirmative Defenses, which will be restated in the response to the current rendition of the Complaint, namely that Plaintiff regularly failed to show up to work, often for days or longer at a time, and then ultimately quit rather than take a different position upon the return from one of his periods of absence.

6. Given the recent amendments to Plaintiff's Complaint, noting further that the undersigned placed Counsel for Plaintiff on notice from the moment of retention in this matter that the Complaint was inaccurate, Defendants are attempting to find the records that will both delineate the amount of owed in overtime by Aztlan, and demonstrate that no damages are owed by EVI. However, Aztlan can say with certainty that the amounts sought by Plaintiff in his Amended SOC are significantly overstated on the OT issue, and that Aztlan owes nothing on wither of the remaining claims.

Dated: June 6, 2022.

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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on this 6<sup>th</sup> day of June, 2022, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

/s/ Charles M. Eiss  
CHARLES M. EISS, ESQ.

**SERVICE LIST**

**United States District Court  
Southern District of Florida**  
*Telleria v. Aztlan Foods, Corp., et al*  
CASE NO. 1:22-cv-21130-BB

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